IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 18.04.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM

and

The Hon'ble Mr. Justice J.A.K.SAMPATHKUMAR

Habeas Corpus Petition No.115 of 2006

Guna ... Petitioner

Vs.

1. The State of Tamil Nadu,
rep. by its Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-600 009.

2.The District Magistrate and District Collector
Vellore Distirct,
Vellore. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 01.12.2005 in office Ref.No.C3.D.O.No.53/2005 against the petitioner's husband Mahalingam, s/o Ramasamy Gounder, now confined in Central Prison, Vellore, Vellore District and set aside the same and direct the respondents to produce the above said detenu before this Court and set him at liberty.

For Petitioner : Mr.V. Parthiban for M/s. E. Kannadasan & P. Jayaseeli

For Respondents: Mr.Abudhukumar Rajarathinam, Govt. Advocate (Crl. Side)

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner, who is the wife of the detenu by name Mahalingam, who was detained as a 'Bootlegger' as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 01.12.2005, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Government Advocate for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Government Advocate has placed the details, which show that the representation of the detenu dated 30.01.2006 was received by the Government on 31.01.2006. The said representation was received by the Collectorate also on the same date i.e. on 31.01.2006 and the parawar remarks were called for from the Sponsoring authority on 07.02.2006 and the remarks were received from the sponsoring authority on 15.02.2006 and the report was sent to the Government on 17.02.2006. The remarks were received by the Government also on the same date i.e. on 17.02.2006 and thereafter, the file was submitted on 20.02.2006 and the same was dealt with by the Under Secretary and Deputy Secretary on the same date i.e. on 20.02.2006 and finally, the Minister for Prohibition and Excise passed orders on 21.02.2006. The rejection letter was prepared on 24.02.2006 and the same was sent to the detenu on 27.02.2006 and served to him on 01.03.2006. As rightly pointed out by the learned counsel for the petitioner, though the parawar remarks were called for from the sponsoring authority on 07.02.2006, the remarks were received from the sponsoring authority by the Collectorate only on 15.02.2006 and there is no explanation at all for sending the remarks to the Collectorate belatedly. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for sending the remarks is on the higher side and the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

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4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

1.The Secretary to Government, State of Tamil Nadu,Prohibition and Excise Department, Fort St. George, Chennai-600 009.

2.The District Magistrate and District Collector, Vellore District, Vellore.

3. The Superintendent, Central Prison, Vellore.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

1 cc to Mr.E. Kannadasan, Advocate, Sr. 19236

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